

REMARKS

In the non-final Office Action dated October 26, 2009, it is noted that claims 1-4, 8-14, and 18-21 are pending. Claims 1 and 11 are independent. Claims 5-7 and 15-17 were previously withdrawn. Claims 1-4, 8-14, and 18-21 are amended herein for non-statutory reasons, for example to remove reference item number designations from the claims. No new subject matter has been added.

Information Disclosure Statement

The Office Action does not consider the PG-Publication to Levy et al. because the incorrect serial number was apparently provided for the document. The correct publication number is 2002/0033844. Applicants herein submit an Information Disclosure Statement containing this disclosure. Consideration of this document is respectfully requested.

Claim Objections

The Office Action objects to claims 2-4, 8-10, 12-14, and 18-20 because of alleged informalities. Applicants herein amend these claims substantially as suggested by the Office and respectfully request the withdrawal of these objections.

Claim Rejections - 35 U.S.C. § 112, second paragraph

Claims 1-4, 8-14, and 18-21 stand rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite. The Office alleges that the terms "unambiguously" in claims 1, 4, 11, and 14; "substantially" in claims 4 and 14; and "e.g." in claims 9 and 19 renders the claims indefinite. The Office also point out that the term "the second database" in claims 10 and 20 lacks antecedent basis. Applicants herein amend claims 1, 4, 9, 10, 11, 14, 19, and 20 in compliance with 35 U.S.C. § 112, second paragraph. Accordingly, Applicants respectfully request the withdrawal of these rejections.

Claim Rejections - 35 U.S.C. § 101

Claim 21 stands rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. The Office suggests that claim 21 can reasonably be interpreted to encompass signals. Applicants herein amend claim 21 to recite the feature of "a computer

readable storage medium. . . ." As such, claim 21 cannot be interpreted to encompass signals. Applicants respectfully submit that a computer readable storage medium is statutory subject matter, and respectfully request the withdrawal of this rejection.

Claim Rejections - 35 U.S.C. § 102

Claims 1-4, 8-14, and 18-21 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent Application 2002/0032864 to Rhoads et al. (hereinafter referred to as "Rhoads"). Applicants respectfully traverse these rejections.

In order for a reference to anticipate a claim, MPEP 2131 requires the reference to teach every element of the claim. According to MPEP 2131, "[t]he identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

It is respectfully submitted that the Office action fails to establish a *prima facie* case of anticipation.

Applicants' claim 1 recites,

A method of relating one or more trigger actions with a multimedia signal, the method comprising:

providing at least one trigger time point (T_n ; T_{n+1}) and for each trigger time point (T_n ; T_{n+1}) providing at least one representation of least one associated trigger action, where each trigger time point (T_n ; T_{n+1}) indicates a time point of the multimedia signal for which the at least one associated trigger action is to be available during playback of the multimedia signal,

for each given trigger time point (T_n ; T_{n+1}) deriving a fingerprint on the basis of a segment of the multimedia signal, where the segment of the multimedia signal is associated with the given trigger time point (T_n ; T_{n+1}), and

associating the derived fingerprint with the at least one associated trigger action.

The Office alleges that Rhoads at paragraphs [0014], [0021], [0022], [0027], and [0030]-[0033] anticipates claim 1. Applicants have considered Rhoads in its entirety and respectfully disagree. Applicants respectfully present four separate and mutually exclusive counter-arguments for the Office action's allegations above, either one of which will independently

overcome the §102 rejection to claim 1.

FIRST, Rhoads does not disclose “providing at least one trigger time point ($T_n; T_{n+1}$) and for each trigger time point ($T_n; T_{n+1}$) providing at least one representation of least one associated trigger action, where each trigger time point ($T_n; T_{n+1}$) indicates a time point of the multimedia signal for which the at least one associated trigger action is to be available during playback of the multimedia signal,” as required in claim 1. Nowhere in Rhoads is the concept of trigger time points discussed or even suggested. Rhoads generally relates to a content identifier which may trigger a corresponding response, and more specifically to fingerprint data, which can be derived from the content such as audio, and used as an identifier to trigger machine responses corresponding to the content. (Title, abstract).

Rhoads at [0014] discloses one form of a fingerprint may be derived by applying content, in whole or part, and represented in time or frequency to a neural network. Although Rhoads discloses a fingerprint which may be represented in time to a network, there is no suggestion of a trigger time point. Rhoads at [0021]-[0022] discusses fingerprinting algorithms, none of which include trigger time points. Rhoads at [0027] discloses a number of different responses can be triggered once a song has been identified. However, Rhoads’ triggering method is based on the identification of a song, but not based on trigger time points.

Rhoads at [0030]-[0033] discloses, among other things, fingerprint data stored in a header may be encrypted. Similarly, the fingerprint can point to a database that contains one or more IDs that are added via a watermark. Or the fingerprint data may be steganographically encoded into the file contents itself. And in some arrangements, a watermark can convey a fingerprint and auxiliary data as well. Rhoads at [0035], which was not cited by the Office, discloses formats where content is segregated into portions and a fingerprint can be calculated and encoded in association with each portion.

However, nowhere in Rhoads’ discussion of content identifiers, such as fingerprints or watermarks, is there a suggestion of trigger time points. Nowhere in its entirety does Rhoads disclose or suggest “providing at least one trigger time point” as required in claim 1. Therefore, Rhoads does not disclose all that is contained in Applicant’s claim 1, and thus does not anticipate claim 1. Reconsideration of the §102 rejection to claim 1 is respectfully requested.

SECOND, Rhoads does not disclose, “providing at least one representation of least one

associated trigger action, where each trigger time point ($T_n; T_{n+1}$) indicates a time point of the multimedia signal for which the at least one associated trigger action is to be available during playback of the multimedia signal,” as required in claim 1.

As explained above, Rhoads does not disclose or suggest a trigger time point. Therefore, Rhoads does not disclose each trigger time point for which an associated trigger action is to be available during playback. Accordingly, Rhoads does not anticipate claim 1 as per MPEP 2131.

THIRD, Rhoads does not disclose, “for each given trigger time point ($T_n; T_{n+1}$) deriving a fingerprint on the basis of a segment of the multimedia signal, where the segment of the multimedia signal is associated with the given trigger time point ($T_n; T_{n+1}$),” as recited in claim 1.

As discussed above, Rhoads does not disclose or suggest a trigger time point. Although Rhoads at [0021] discloses short windows of an audio track resulting in plural fingerprints – one for each excerpt, this is completely different from claim 1 because in Rhoads, a fingerprint is not derived for each given trigger time point. Therefore, Rhoads does not teach every element of claim 1.

FOURTH, Rhoads does not disclose, “associating the derived fingerprint with the at least one associated trigger action,” as required in claim 1. Rhoads does not disclose a trigger action as required in claim 1. Therefore Rhoads does not associate a derived fingerprint with an associated trigger action. Accordingly, Rhoads does not show the identical invention in complete detail as contained in claim 1. Reconsideration of the §102 rejection to claim 1 is respectfully requested.

Independent claim 11 is different from claim 1. For example, claim 11 is directed toward a multimedia device, while claim 1 is directed toward method. Although different from claim 1, claim 11 includes patentable subject matter similar to that of claim 1 as explained above.

The Office action uses the same arguments as set forth with regard to claim 1, alleging that claim 11 is anticipated by Rhoads under 35 U.S.C. §102(b).

The Applicants repeat the above arguments for claim 1 and apply them to claim 11. As such, the Applicants respectively submit that the Office has not presented a *prima facie* case of anticipation and the rejection to independent claim 11 under 35 U.S.C. 102(b) should be withdrawn.

With respect to dependent claims 2-4, 8-10, 12-14, and 18-21, each dependent claim

depends from and inherits all of the respective features of an allowable independent claim. Thus, each of dependent claims 2-4, 8-10, 12-14, and 18-21, is patentable for at least the same reasons as discussed above with respect to claim 1, with each dependent claim containing further distinguishing patentable features.

It is respectfully submitted that the rejections to claims 1-4, 8-14, and 18-21, under 35 U.S.C. § 102(b) have been overcome. Hence, withdrawal of the rejections and early allowance of these claims are respectfully requested.

Double Patenting

Claims 1, 11, 10, 20, 3, 13, 4, 14, 8, 18, and 21 stand provisionally rejected on the ground of nonstatutory double patenting over claims 1, 15, 2, 16, 3, 17, 4, 18, 14, 28, and 29, respectively, of copending application No. 10/566,003.

Applicants respectfully disagree and submit that the claimed invention is patentably distinct from the claims of the copending application. However, Applicants will defer responding to this provisional nonstatutory double patenting rejection until allowance of the copending application or resolution of all other issues in the current application.

Conclusion

In view of the foregoing, the Applicants respectfully request that the Examiner withdraw the objection(s) and/or rejection(s) of record, allow all the pending claims, and find the application in condition for allowance.

If there are any errors with respect to the fees for this response or any other papers related to this response, the Director is hereby given permission to charge any shortages and credit any overcharges of any fees required for this submission to Deposit Account No. 14-1270.

Respectfully submitted,

/Brian S. Myers/
By: Brian S. Myers
Registration No.: 46,947
973-401-7157